



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 10

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Seattle, Washington 98101-3140

JUN 08 2011

OFFICE OF
WATER AND WATERSHEDS

Mr. Neil Mullane, Administrator
Water Quality Division
Department of Environmental Quality
811 S.W. Sixth Avenue
Portland, Oregon 97204-1390

Re: Determination of Progress - Oregon's Nonpoint Source (NPS) Management Program

Dear Mr. Mullane:

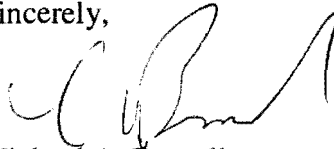
Thank you for submitting the *Oregon Nonpoint Source Pollution Program 2010 Annual Report* (Annual Report), prepared by the Oregon Department of Environmental Quality (ODEQ). Section 319(h)(11) of the Clean Water Act requires States to report annually on progress under their approved NPS Management Programs, including pollutant load reductions and improvements to water quality. EPA must establish whether the State has made "satisfactory progress" each year implementing its NPS Management Program prior to awarding Section 319 funds. The Annual Report is a primary means (along with other reporting conducted under the program) by which we make this determination and evaluate grant performance.

Based on our review we conclude that Oregon made satisfactory progress the past year implementing its NPS management program. In our enclosed review comments, we acknowledge both the areas of progress and the need for continued emphasis in the following areas: (1) the State's utilization of 319 funds; (2) the prioritization and funding of 319 projects through watershed-based plans; (3) the coordination of NPS program objectives with the various State and federal programs and jurisdictions, including the leveraging of funding sources; (4) initiating the process and timeline for achieving full approval of the State Coastal NPS Program; (5) monitoring, achieving results, and the reporting of water quality improvements and pollutant load reductions from NPS projects. We appreciate the continued progress the State has made the past year addressing these key issues.

EPA will continue to work in partnership with Oregon to address the above NPS water quality issues, including program activities and projects supported directly through EPA Section 319 funding. In particular, we will continue to work together to direct program resources to watersheds within which measureable water quality improvements can be achieved. We appreciate all the hard work and dedication by ODEQ and the State to implement the NPS program this past year.

Thank you again for updating and submitting Oregon's comprehensive 2010 NPS Annual Report. Please feel free to contact me at (206) 553-4198 or Rick Seaborne our NPS Coordinator at (206) 553-8510.

Sincerely,

A handwritten signature in black ink, appearing to read 'Michael A. Bussell', written over a horizontal line.

Michael A. Bussell
Director
Office of Water and Watersheds

Enclosure: Review Comments on Oregon NPS Program Progress in 2010

cc: Mr. Gene Foster, Manager
Watershed Management Section, ODEQ

Mr. Ivan Camacho
319 Program Coordinator, ODEQ

Mr. Don Yon
NPS Pollution Coordinator, ODEQ

Review Comments on Oregon NPS Program Progress in 2010

Utilization of Clean Water Act (CWA) Section 319 Funds

As indicated in the Annual Report, yearly CWA Section 319 funding provided by EPA to Oregon is split between the Oregon Performance Partnership Grant (PPG) - to fund staff supporting the NPS program - and a separate 319 grant which funds local implementation projects. ODEQ activities supported through the yearly 319 funding include NPS program administration and management, local and statewide 319 projects, Total Maximum Daily Load (TMDL) development and implementation, and related NPS watershed protection activities.

Last year, approximately 52% (\$1,381,409) of Oregon's total FY 2010 federal Section 319 funding allocation of \$2,675,700 was included in a categorical 319 grant to ODEQ for local projects. The remainder of the State 319 funding was directed to the PPG. Thank you for including descriptions in the Annual Report of how 319 funds were used under the PPG to support specific NPS/319 program priorities and commitments. EPA also continues to encourage the State to direct 319 funds toward projects implementing watershed-based plans.

Development and Implementation of Local 319 Projects

The Annual Report describes the process ODEQ used to evaluate projects for funding in 2010 under the State geographic and programmatic priorities. The projects include riparian restoration, groundwater management plan implementation, best management practices (BMPs), and education and outreach. ODEQ also leverages the federal 319 grant funds with Oregon Watershed Enhancement Board (OWEB) salmon recovery funding, as described in the Oregon Plan for Salmon and Watersheds. EPA strongly supports these cooperative NPS funding efforts.

The progress of all 319-funded projects during 2010 is summarized (and examples provided) in the Annual Report. Due to the State 319 grants being awarded by EPA yearly, each with multiple-year grant periods, a considerable number of individual 319 projects are in progress at any one time (71 as of 12/31/10, including 33 new in 2010). Due to concerns in the 319 program nationally about unexpended 319 funds, we appreciate ODEQ successful management and completion of projects within the grant time periods. We also commend the ODEQ regional offices conducting project oversight and monitoring, and providing local technical assistance.

Impaired Waters, TMDLs, and Watershed-Based Plans

Most impairments to Oregon waterbodies result from nonpoint sources. During 2010, three additional Oregon TMDLs were approved by EPA: the Lower Grande Ronde, Malheur River Basin, and John Day River Basin (in sum for temperature, bacteria, chlorophyll a, dissolved oxygen, and biological criteria). The Annual Report describes the process and timeline for developing TMDL implementation plans through the Designated Management Agencies (DMAs), ODEQ's oversight role, and efforts to incorporate the nine key watershed-based plan

elements into the implementation plans. The Annual Report also indicates that ODEQ has initiated a Watershed Approach, and envisions that each of the three ODEQ Regions will complete a Watershed Approach Plan for one basin (of total 15 basins) each year.

Nine-element watershed-based plans are required under the 319 program guidance for projects funded from the “incremental” 319 funds (which has been \$100 million nationally). EPA supports all ODEQ efforts to incorporate the watershed-based planning approach to guide implementation of 319 projects resulting in measurable improvements to water quality.

State Revolving Fund NPS Projects

ODEQ provided five additional loans in 2010 (totaling \$11.2 million) for NPS projects through the Clean Water State Revolving Fund (CWSRF) loan program. These included two irrigation districts (to maintain minimum flows and reduce turbidity), a sewer district (to replace failing septic systems), a municipality (to replace drywells with green infrastructure in areas of groundwater vulnerability), and sponsorship option financing of a riparian enhancement project.

Since 2004 Oregon’s CWSRF program has provided nearly \$50 million for NPS improvement projects. EPA strongly supports the use of CWSRF financing for NPS pollution control projects and looks forward to working with ODEQ to leverage CWSRF and 319 funding.

Drinking Water Protection, and Groundwater Management Areas

Nonpoint sources also contribute to groundwater contamination in the State. The Annual Report provides a detailed update on ODEQ and other state agency involvement in groundwater protection activities, including source water assessments and plans, watershed protection strategies, smart growth projects, model ordinances, a GIS demonstration project in the Tualatin Watershed, contaminant monitoring and analyses, and a BMP database for 88 contaminants.

Concern over elevated nitrate in groundwater led to designation by ODEQ of the Southern Willamette Valley, Lower Umatilla Basin, and Northern Malheur County as Groundwater Management Areas (GMA’s) and subsequent actions undertaken to reduce nitrate concentrations as indicated in the Annual Report. Of particular note are activities to date (education, outreach, groundwater monitoring, inter-agency coordination) within the Southern Willamette GMA.

Coastal NPS Program

The Annual Report provides an update on Oregon’s Coastal Nonpoint Pollution Control Program (CNPCP) under Section 6217 of the Coastal Zone Act Reauthorization Amendments of 1990 (CZARA). The State program is conditionally approved by the National Oceanic and Atmospheric Administration (NOAA), and EPA, subject to three outstanding measures pertaining to new development, on-site sewage disposal, and forest management.

Pursuant to a Settlement Agreement, a process and timeline for actions addressing the remaining management measures was initiated in 2010, as outlined in the Annual Report. These include the development of "Implementation Ready" TMDLs in the coastal basins (the Mid-Coast basin being the first) to ensure water quality protection from forest practices. They will also provide direction to smaller scale TMDL plans specifying where and when actions and restoration projects will be implemented. In addition, new development and on-site disposal system actions needed to achieve program approval are being developed.

EPA will continue to work with NOAA and ODEQ to ensure all actions are achieved under the prescribed settlement timeline with the goal of received full CNPCP approval. We thank ODEQ for initiating these actions and including an update for 2010.

Water Quality Monitoring

The Annual Report describes monitoring conducted in the state in support of TMDLs, groundwater assessments, and the large river ambient program, as well as volunteer, coastal, and toxics monitoring. The report highlights ODEQ involvement in toxics data collection, the Willamette Basin mercury study, review of volunteer organization sampling plans, monitoring in three groundwater management areas, and completion of the Oregon Lakes Survey.

Water quality monitoring is necessary under the NPS program (and watershed-based planning framework) in order to identify water quality problems, set project priorities, and assess the effectiveness of implementation. We appreciate the summary of monitoring efforts in the Annual Report and fully encourage all monitoring in support of the NPS program statewide.

Agricultural Lands and Pesticide Stewardship Partnerships

The Annual Report describes how ODEQ is addressing water quality issues on agricultural lands through coordination with the Oregon Department of Agriculture (ODA), the National Resources Conservation Service (NRCS), the state Soil and Water Conservation Districts (SWCDs), and other organizations. ODA is responsible for developing State Agricultural Water Quality Management Plans and meeting water quality standards and TMDL load allocations on agricultural lands, and works directly with the local SWCDs. ODEQ participates in the review of those plans and coordinates with ODA (e.g. on pesticides and toxics issues). The Annual Report also cites ODA compliance actions, and outreach activities by ODA and the SWCDs.

State agency (including ODEQ) participation in the Water Quality Pesticides Management Team under a 2009 Memorandum of Understanding (MOU) is described in the Annual Report as are statewide actions completed in 2010 and planned for 2011. Progress under the Pesticide Stewardship Partnerships (PSPs) has continued, including monitoring, outreach and education. Previous reports described the lowering of pesticide concentrations within the Walla Walla watershed as a result of implementation work supported by 319 funds. Further reductions in organophosphate insecticides in Eastern Oregon and the North Willamette are cited. Clearly, the

use of 319 funds for the pesticide program has strengthened water quality protection through community involvement, education, data collection, and BMP implementation measures.

The Annual Report describes the Conservation Effectiveness Partnership and MOU between ODEQ, NRCS and OWEB with the goal of evaluating the effectiveness of funded restoration actions. The MOU identifies two pilot studies being undertaken in the Tillamook Bay watersheds and the Upper Deschutes sub-basin to examine the effectiveness of actions (e.g. to address bacteria and temperature) in order to better coordinate and direct restoration efforts. We appreciate these efforts and also wish to acknowledge ODEQ coordination with NRCS (including participation on the state and local NRCS technical advisory committees) to better identify project priorities, success stories, and address NPS pollutants from agricultural lands.

Forests and Rangelands

The Annual Report describes efforts to address water quality issues on forests and rangelands. ODEQ continued to participate with the Oregon Department of Forestry (ODF) on the RipStream (Riparian Function and Stream Temperature) project, which is evaluating the effectiveness of the Oregon Forest Practices (FPA) rules in protecting stream temperature and habitat. Coordination also continued between ODEQ and the U.S. Forest Service (USFS) and the Bureau of Land Management (BLM) through the respective MOUs with those agencies on federal lands - as reflected in the five-year watershed progress reports. TMDLs are implemented on USFS and BLM lands (as the federal DMAs) through Water Quality Restoration Plans (WQRPs). Thank you for updating the status of funded activities (e.g. road, riparian projects, etc) in the Annual Report. A final draft of a new DEQ/BLM MOU was completed in 2010, incorporating the recommendations of the June 2010 DEQ/BLM/USFS five-year report.

EPA strongly supports ODEQ collaborative partnerships with the ODF, USFS, and BLM addressing watershed protection and restoration activities on private, state, and federal lands. EPA also agrees with the need for the agency MOUs and actions to focus on implementation, monitoring, and achievement of water quality standards.

Measuring Progress Under the NPS Program

Section 319 of the CWA requires states to report annually on: (1) progress in meeting NPS Program milestones, (2) reductions in NPS loading, and (3) improvements in water quality resulting from NPS program implementation. National NPS program measures were developed under these objectives, including WQ-10 (NPS-impaired waterbodies which are partially or fully restored as documented through Success Stories), WQ-9 (reductions in nitrogen, phosphorous, and sediment from 319 projects through the Grants Reporting and Tracking System (GRTS), and SP-12 (water quality improvement on a watershed basis). We appreciate the efforts by ODEQ to document improvements to water quality resulting from NPS implementation and 319 funding.

Documentation for partial or full restoration/attainment of water quality standards (WQ-10) is through publication on EPA's Success Stories website. Stories which do yet not count toward

WQ-10, but do document “progress” toward attainment of water quality standards, or document ecological restoration, can also be published on that website. The Annual Report provides an excellent description of the “progress” story published in 2010 for the Bear Creek Watershed (phosphorous reductions). Also included is a description of progress in the Tillamook Sub-basin, within which Wilson Creek is located and has been published as a “progress” story (bacteria reductions leading to standards attainment). The Annual Report also highlights additional ODEQ success stories resulting from restoration actions and BMPs implemented in the Columbia Slough and Tualatin River Basin, and in the Malheur Basin in Eastern Oregon. We appreciate the assistance ODEQ has provided to develop and highlight these Success Stories.

Annual nitrogen, phosphorous, and sediment load reductions from 319 projects were modeled and entered into GRTS by ODEQ, and summarized in the Annual Report. The load reductions of projects in 2009 and 2010 include 62,518 pounds of nitrogen; 25,461 pounds phosphorus; and 20,853 tons sediment. We commend Oregon for continued progress in reporting load reductions by the yearly national deadline while recognizing that other impairments (e.g. bacteria, temperature) are also being addressed by 319 projects in Oregon.